

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1950

By: Cruz

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; defining  
8 terms; authorizing credit for landlords; providing  
9 for recapture of credit; limiting annual authorized  
10 credits; authorizing carryover; authorizing refund of  
11 credits to taxpayer; authorizing transfer of credits;  
providing for registration program; authorizing  
Oklahoma Tax Commission to administer credit;  
providing for codification; and providing an  
effective date.

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14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 2357.500 of Title 68, unless  
17 there is created a duplication in numbering, reads as follows:

18 A. As used in this section:

19 1. "COVID-19" means the novel coronavirus identified as SARS-  
20 CoV-2, the disease caused by SARS-CoV-2, and conditions associated  
21 with the disease;

22 2. "COVID-19 financial hardship" means the financial difficulty  
23 of paying rent caused by the COVID-19 pandemic such as loss of  
24 employment, loss of financial support, increase in medical expenses,

1 increase of child care expenses, or other COVID-19-related  
2 circumstances that have an effect on a tenant's ability to pay rent;

3 3. "Landlord" means the owner, lessor or sublessor of the  
4 dwelling unit or the building of which it is a part, manufactured or  
5 mobile home site, space or lot;

6 4. "Qualified entity" means:

- 7 a. an individual,
- 8 b. a general partnership,
- 9 c. a limited partnership,
- 10 d. a limited liability partnership,
- 11 e. a limited liability company,
- 12 f. a corporation, or
- 13 g. any other lawfully recognized entity;

14 5. "Qualified rental income loss" means an amount equal to the  
15 gross amount of unpaid rent deferred by the qualified entity due  
16 under a rental agreement which was deferred by written agreement  
17 between the qualified entity and tenant or tenants due to COVID-19  
18 financial hardship. Qualified rental income loss does not include  
19 any amount in excess of one hundred percent (100%) of the sum of the  
20 amounts of rent charged per month stated in the rental agreement  
21 that would have been paid but for the written agreement;

22 6. "Qualified residential real property" means:

- 23 a. a single-family residential dwelling,
- 24 b. an apartment,

1 c. a duplex or townhome, or

2 d. any other structure or dwelling suitable for permanent  
3 occupancy by one or more individuals;

4 7. "Rental agreement" means all agreements and valid rules and  
5 regulations adopted under Section 126 of Title 41 of the Oklahoma  
6 Statutes, which establish, embody or modify the terms and conditions  
7 concerning the use and occupancy of a qualified residential real  
8 property and premises;

9 8. "Tenant" means any person entitled under a rental agreement  
10 to occupy a qualified residential real property; and

11 9. "Rent" means all payments, except deposits and damages, to be  
12 made to the landlord under the rental agreement.

13 B. For taxable years beginning after December 31, 2021, and  
14 ending not later than December 31, 2024, there shall be allowed a  
15 credit against the tax imposed pursuant to Section 2355 of Title 68  
16 of the Oklahoma Statutes in the amount of one hundred percent (100%)  
17 for the qualified rental income loss incurred by a qualified entity  
18 acting as a landlord of a qualified residential real property  
19 pursuant to a rental agreement.

20 C. The Tax Commission shall recapture the credits otherwise  
21 authorized by the this section if it finds the claimed qualified  
22 rental income loss was recovered by the qualified entity pursuant to  
23 late rent payments or pursuant to forcible entry and detainer or  
24 other civil actions.

1 D. For tax years 2022 and thereafter the total credits  
2 authorized pursuant to subsection B of this section for all  
3 taxpayers shall not exceed Ten Million Dollars (\$10,000,000.00)  
4 annually.

5 E. The credit authorized pursuant to the provisions of this  
6 section may not be used to reduce the tax liability of the taxpayer  
7 to less than zero.

8 F. To the extent not used, the tax credit authorized by the  
9 provisions of this section may be carried over, in order, to each of  
10 the ten (10) subsequent taxable years.

11 G. The Tax Commission is hereby authorized to refund a qualified  
12 entity for credits which have not been used by the qualified entity.  
13 The qualified entity shall submit a written request for a refund  
14 which shall contain the name, address and taxpayer identification  
15 number of the qualified entity, the amount of the credit to be  
16 refunded, the year the credit was originally allowed to the  
17 qualified entity and the tax year or years for which the credit may  
18 be claimed. The Tax Commission may promulgate rules to permit  
19 verification of the validity and timeliness of a tax credit claimed  
20 upon a tax return pursuant to this subsection but shall not  
21 promulgate any rules that unduly restrict or hinder the refunds of  
22 such tax credit.

23 H. The amount of the credit allowed but not used shall be  
24 transferable to an unrelated party at any time during the ten (10)

1 years following the year of qualification. Any person to whom or to  
2 which a tax credit is transferred shall have only such rights to  
3 claim and use the credit under the terms that would have applied to  
4 the entity by whom or by which the tax credit was transferred. The  
5 provisions of this subsection shall not limit the ability of a tax  
6 credit transferee to reduce the tax liability of the transferee  
7 regardless of the actual tax liability of the tax credit transferor  
8 for the relevant taxable period. The transferor originally allowed  
9 the credit and the subsequent transferee shall jointly file a copy  
10 of the written credit transfer agreement with the Tax Commission  
11 prior to the transfer. The written agreement shall contain the  
12 name, address and taxpayer identification number of the parties to  
13 the transfer, the amount of the credit being transferred, the year  
14 the credit was originally allowed to the transferor and the tax year  
15 or years for which the credit may be claimed. A credit shall not be  
16 transferred pursuant to the subsection to more than one taxpayer,  
17 nor shall the credit be resold by the unrelated party to another  
18 taxpayer or other party. The Tax Commission may promulgate rules to  
19 permit verification of the validity and timeliness of a tax credit  
20 claimed upon a tax return pursuant to this subsection but shall not  
21 promulgate any rules that unduly restrict or hinder the transfers of  
22 such tax credit.

23 I. 1. On or before January 1, 2022, the Tax Commission shall  
24 create a registration program for qualified entities.

1        2. The registration form shall require the qualified entity to  
2 provide necessary information, as determined by the Tax Commission,  
3 including, but not limited to, the following items:

4            a. the legal name under which the qualified entity  
5                      transacts or intends to transact business,

6            b. the address and name of the tenant or tenants the  
7                      qualified entity is claiming qualified rental income  
8                      loss from,

9            c. the start date of the rent deferral and the amount of  
10                     rent deferred,

11           d. the location of the qualified entity's place or places  
12                     of business,

13           e. a copy or copies of the written agreement between the  
14                     qualified entity and the tenant or tenants to defer  
15                     rent, and

16           f. a copy or copies of the existing rental agreement  
17                     between the qualified entity and the tenant or  
18                     tenants.

19        3. To be eligible for the credit authorized by this section,  
20 each qualifying entity shall register with the Tax Commission within  
21 sixty (60) days of executing a written agreement between the  
22 qualified entity and the tenant or tenants.

23        4. Upon receipt of a registration form, the Tax Commission shall  
24 provide a notice to the qualified entity that includes its

1 eligibility to receive the credit and the total amount of credit  
2 that would be available to the eligible entity pursuant to this  
3 section.

4 J. The Tax Commission shall promulgate rules, guidelines, and  
5 procedures as are necessary for the proper administration of the  
6 credit authorized in this section including any regulations to  
7 prevent improper claims from being filed. The Tax Commission may  
8 also develop forms and instructions as necessary for a qualified  
9 entity, if applicable, to claim, obtain a refund, or transfer  
10 credits provided by this section.

11 SECTION 2. This act shall become effective January 1, 2022.

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13 58-1-6323 AQH 12/31/20

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